

OGC Has Reviewed

30 July 1951

MEMORANDUM FOR MR. HOUSTON

25X1A

Subject: Travel Expenses for Mr. [REDACTED]

25X1A

1. Reference is made to your oral request concerning the possibility of payment of certain travel expenses for Mr. [REDACTED], Executive Director of the Psychological Strategy Board. Mr. [REDACTED] duties will be performed in Washington, and he will make weekly round trips to North Carolina.

25X1A

25X1A

2. The general rule is that, unless otherwise provided by statute, or regulations having the force of statutes, all public officers must place themselves where they are first to perform duty, without expense to the Government (22 Comp. Gen. 885). This general rule does not apply to persons employed intermittently as consultants or experts and receiving compensation on a per diem when actually employed basis, but it is clear that Mr. [REDACTED] does not fall within this exception. Consequently, there is no legal basis for payment of Mr. [REDACTED] travel expenses for his initial trip to Washington.

3. Congress has specifically authorized the payment of travel expenses to intermittent consultants or experts in Section 5 of Public Law 600 (5 USCA 55). The following interpretation of this legislation has been advanced by the Comptroller General:

"The term, 'intermittent,' has been the subject of various interpretations both by the courts and the accounting officers of the Government. In each case, the interpretation there given has been based upon the context of the law or regulation being construed, together with a consideration of the particular facts and circumstances involved. For that reason, no general definition of the word, 'intermittent,' which would be applicable to all cases has been attempted by the accounting officers, and neither would it appear that such an attempt is feasible. An examination of the legislative history of Public Law 600 fails to reveal an intent on the part of the Congress to attribute to the term 'intermittent' as used in that act any special or technical meaning. Rather, it fairly appears from such legislative history that the Congress, when using such term, broadly had reference to employments contemplating occasional or irregular service as distinguished from regular or continuous service such as is contemplated under the usual types of appointments or employment agreements covering permanent or temporary employees." (27 Comp. Gen. 651, at 653).

25X1A

It seems clear that Mr. [REDACTED] employment will be in a capacity other than that of a consultant or expert, and is also apparent that it will be regular and continuous, rather than occasional and irregular.

-2-

25X1A 4. After his arrival in Washington, it is understood that Mr. [REDACTED] will make weekly round trips to North Carolina to perform his duties as [REDACTED]. There is no indication that such trips will be for the benefit of the Government; rather it is clear that this travel will be for Mr. [REDACTED] personal benefit. As mentioned above, Government funds could be utilized for such travel if Mr. [REDACTED] were employed in a truly intermittent capacity as an expert or consultant. However, since Mr. [REDACTED] does not fall within this category, and because his trips to North Carolina will not be for the benefit of the Government, there is no legal basis for the use of Government funds for such travel expenses.

25X1A 5. It is clear, of course, that Government funds may be used for any travel Mr. [REDACTED] performs while on official business of the Government, but his travel to and from his home in North Carolina cannot be construed as official business.

25X1A
[REDACTED]

OGC/JJB/McD

cc/Chrono
Legal Decisions
Vital Documents